ALR
RECORDS
AND
BRIEFS

(1)

Supreme Court, U.S.
041245 NOV 18 2004

Docket No._____

IN THE SUPREME COURT OF THE UNITED STATES

CALVIN P. ROACH
PETITIONER
v.
TERRI L. ROACH
RESPONDENT
Attorney: Michael Farro

ON PETITION FOR WRIT OF CERTIORARI
FROM ARIZONA COURTS OF APPEAL
DIVISION II
CASE: 2A CV –2000-0215
March 08, 2005
October Term beginning October 2004.

CALVIN ROACH
1777 CALLE VENTANA
SIERRA VISTA, AZ 85635
(520) 458-8105
Pro Se

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Questions Presented

I. Whether the Arizona Courts of Appeal properly affirmed that I am obligated to pay additional Dental and Medical insurance when my son is covered under my military benefits and is covered under Tricare dental and medical plans for retired military?

II. Whether the Arizona Courts of Appeal properly failed to consider false claims and perjured statement for child-support made by her and her attorney?

III. Was the Arizona Courts of Appeal correct by accepting the Trial judge determination of how military retirement is to be divided?

IV. Whether the Arizona Courts of Appeal was correct in not recommending to the State Supreme Court the sanctioning of Mr. Farro conspiracy for misstating federal and state laws that resulted into me occurring financial damage?

V. Did the Arizona Courts of Appeal err by not removing Honorable Judge Desens from this case for abuse of process?

VI. Whether the Arizona Courts of Appeals can allow a pro se litigant be prejudiced by the government (Judge) because the judge failed to follow State Statute ARS 25-403 (J)?

VII. Can the State Courts violate family members 14th amendment rights by allowing the mother to receive child-support from one parent and not the other when the mother could have filed for support from the other parent or the Court give me, primary custody of Jarod?

List of Parties:

The parties to the Federal Questions are Terri Roach and her attorney Michael Farro and Superior Court Judge, Hon. Judge Desens.

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IN THE SUPREME COURT OF THE UNITED STATES

CALVIN P. ROACH

PETITIONER

v.

TERRI L. ROACH

RESPONDENT

OPENING PETITION FOR WRIT OF CERTIOARI

ARIZONA COURTS OF APPEAL

Case #: 2A CV-2000-0215

OPINION BELOW

The opinion of the court of appeals 2A CV-2000-0215.

CITIATION TO OFFICIAL AND UNOFFICIAL REPORTS

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14th Amendment, Section I

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Diezi v. Diezi, 201 Ariz. 524; 38 P. 3d 1189 (2002)

Owen v. Blackhawk, 206 Ariz. 418 (2004)

JURISDICTION

The United State Supreme Court has jurisdiction over all state court decisions under the United States Constitution, a state court as a last resort decided important federal question that conflicts with the United State Supreme Court and the highest state court rendered a decision and review by State Supreme Court not reviewed. This review is pursuant 28 USC 1257. The Courts of Appeals decision was entered on November 24, 2003 and the State Supreme Court denied review on August 19, 2004.

CONSTITUTIONAL PROVISIONS AND STATUTES INVOLVED

The following are provisions and statutes are: United States Constitution Amend XIV, 10 USC 1408,10 USC 1072, ARS 25-320 and ARS 25-403.

STATEMENT

On May 19, 2000, I Calvin Roach filed for a divorce against Terri Roach. I hired attorney Gary Raemaker and she hired attorney Michael Farro. On August 21, 2000 we went to temporary custody hearing and the issue about me being arrested for domestic violence and a possible conviction was possible. At that hearing attorney Farro stated that his client earned $2000 per month. When his client was cross-examined attorney Farro stated that he made a mistake about the income and that his client earned about $2900. It was proven Mr. Farro's client earned about $500 more. On 24 October 2000, we entered into a custody agreement and the attorneys stated that I am obligated by federal law to pay my wife $74.00 of my military retirement and I will maintain military Tricare health and dental on both children; also, I will received normal visitations with my son and stepson, and have midweek visitations with them. I then filed a bar complaint against the opposing attorney for misconduct and after my attorney got word that action he quite and filed a

Motion to Withdraw, the court granted his request. I then got convicted in trial for domestic violence. The State Bar informed me to address this sanction to the judge.

On October 16, 2001 we went to trial. Attorney Farro and my ex-wife used that conviction as justification to reduce my visitations with my son and stepson. Terri also made claims of needing an extra $100 for child-care and programs that my son Jarod was in and that she wanted to keep him in those programs. I entered evidence that contradicted her claims. She and her attorney also requested that I pay for medical and dental for my son Jarod even though he received Tricare medical and dental that is a military benefit. Her attorney Farro stated to the court that the law states that I am to pay portions of my retirement along with cost of living increases. I informed the court that my conviction was unconstitutional.

On November 13, 2001, the court entered a minute entry granting Terri sole custody but did not grant her any portions of my retirement. The court also instructed that attorney Farro to prepare the decree to be consistent with the order. The attorney created a decree and added portions of my retirement pay to it. The conviction was vacated on grounds Rule 24.2 of Arizona Rules Criminal of Court, violation of constitutional rights.

On May 2, 2001, I appealed the order entirely and that I was convicted for the divorce. The issues include dividing of property was not equitable, fraud, and racketeering attempts, retirement calculation, paying additional dental and medical, and judicial and attorney prejudice and misconduct. November 24, 2003, the Court of Appeals rendered a decision. The Court of Appeals stated that in her testimony she states that she made $3450 per month therefore there was no perjury or deception. The court of appeals findings were that there was no fraud or errors in the court with the exception that the court should not have made me pay double

life insurance on my son because my son is covered under my military benefits. I filed a motion for review and the court denied it on December 17, 2003. On January 2, 2002, I filed a motion to suit in Federal Court for racketeering and a Motion to Stay to the time limit. On April 29, 2004 the Federal Court dismissed the suit under of the Rooker-Feldman doctrine only. I appealed to the Ninth Circuit Court. On May 5, 2004 I filed a Motion for Review to Arizona Supreme Court and on August 19, 2004 the Court denied to review. Federal questions I, II, and III and VII were addressed in to the Courts of Appeal (Opening Brief). Questions IV, V and VI were derived from the Courts of Appeals decision and the State Supreme Court refused to review the questions.

DISCUSSION

The Superior Court ordered that I pay my ex-wife additional monies to cover my son Jarod for medical and dental. Jarod is covered for medical and dental under my military benefits Tricare plan. I do not feel that I should be obligated to have my son under two medical and dental plans; especially since they both are plans offered to federal employees and my son is covered once already. The Court of Appeals states that the amount should be prorated. Under federal law my son is covered until at least he reaches the age of 18 under the federal Tricare medical and dental plans that are part of my military retirement benefits. ***10 USC 1072 (2) (D),***

> ***"A Child who -... ii. has not attained the age of 23, is enrolled in a full-time course of study at an institution of higher learning approved by the administering Secretary and is, or was at the time of the member's or former member's death, in fact dependent on the member or former member for over one-half of the child's support;"***

Because Jarod is my biological son, he is automatically covered under federal Tricare for dental and medical and I should not be have to pay for Terri's supplemental medical and dental plans. When an attorney the judge represented the opposing attorney and me followed federal law by not having me to pay additional monies for dental and medical but as soon as the attorney quit, the judge and attorney ignores federal laws.

The Trial judge failed to review evidence that was submitted to the court and considered testimony from Terri Roach that I proved the amount of child-care was erroneous. On pages 14 thru 16 of the opening brief to the Court of Appeals I showed mathematically where my ex-wife claims was false and enormous. I did submit evidence to the trial judge to prove that her claims were false. The Court of Appeals states that this act was a harmless error. Harmless for whom, my

attorney took time out to discover the misconduct and fraudulent attempts made by attorney Farro and I had to pay my attorney for those services. Nowhere in legal doctrine does judicial absolute immunity relieve the attorney from discipline; it only relieves the judge from being sued for financial damages.

Mr. Farro again failed to apply his client's appropriate income in the Court Trial and figured my retirement owed to his client above what I was obligated to pay under federal statutes; that resulted in me paying his client more child-support money and retirement pay.

The Court of Appeals stated that I did not cite anything about Terri making $3800 per month nor was there anything in the record to support that allegation. I feel that was a cover-up attempt because on page 14 -16 of the Opening Brief. I referenced her pay stub and calculated that she is earning more than $3800 per month. The pay-stub that she entered to the Court stated that she made $26,406 ending pay period 15 and by using simple math it results to about $3814 per month. The Court of appeals stated that there was nothing in the record to assert my claims that Terri stated she made $3800 per month. The document is Terri's pay stub that her attorney entered into evidence and is part of the pretrial statements. Terri's pay stub states at the end of 15 pay periods that she earned $26,406.94 and has 26 pay periods per year. That amount to more to about $3814.00 per month and that is the rate the child support is to be figured out as. The Court of Appeals also stayed that I am the medical and dental plan was not calculated properly and that I was paying too much. All the intended violations of law by the trial judge increase my child-support obligations by almost $800 a year. I shall demonstrate below.

The first assumption assumes that I am obligated to pay $94.70 for dental and medical. My retirement is based on 14% of the disposable amount. The disposable amount is

retirement ay minus survivor benefits minus taxes, ***10 USC 1408*** and the US Supreme Court stated the same in ***Mansell v. Mansell, 490 US 581 (1989)***.

> ***"Footnote: 3. Also deducted from total military retirement pay are amounts: (a) owed by the military member to the United States; (b) required by law to be deducted from total pay, including employment taxes, and fines and forfeitures ordered by courts-martial; (c) properly deducted for federal, state, and local income taxes; (d) withheld pursuant to other provisions under the Internal Revenue Code; (e) equal to the amount of retired pay of a member retired for physical disability; and (f) deducted to create an annuity for the former spouse. 10 U.S.C. §§ 1408(a)(4)(A)-(F) (1982 ed. and Supp. V)."***

The $363.23 is then multiplied by .14 and that $50.85 is the amount owed for retirement.

My monthly pay is $6072.28 according to documents sent to the court. My retirement Pay is $1131.00 gross. My net income is regular pay + retirement - retirement paid to my ex-wife and that is $7152.43. Terri's pay is $3814.34 + $50.85 = $3865.19. Her deduction for having a son from another relationship will be deducted from that and that amount is $641and that sub amount is $3224.19. The total income between us two is $10,376.60 and this amount goes on line 13 of the child support guidelines. The total obligation is $1191.00. In this scenario I will add the fraudulent amount of $94.70 and use $52.00 for child-care cost instead of the bloated $100.00. The $52.00 was derived in my Opening Brief to the Arizona Court of Appeals. That adds an additional $146.70 to the child support obligation; therefore, the new obligation amount is $1337.70 and that is added to line 23 of the child support worksheet. I am percentage that I am obligated to pay is

$7152.43/$10,376.60 = 69% and Terri is obligated 31% (line 26 of the child support worksheet). Line 29 equals the percentage multiplied by the total obligation that results are $931.07. The visitation discount is .105 multiplied by 1191 and that amount is 125 subtracted from the $922.53; therefore, under the conditions that if I did not have military benefits and my son was not subjected to receiving those benefits my obligations would be $797.53. The reason that I am paying is not because of mathematical error, it is because Mr. Farro borage of lies and false statements in all of the hearing of this case. After subtracting the credit for visitation I should be obligated to pay $741.00 if I was to pay dental and medical. Arizona Child Support guidelines are described in ***ARS 25-320***. The reason that I am paying more than the guidelines is not because of mathematical error, it is because Mr. Farro borage of false statements in all of the hearing of this case. Court Transcripts support this statement, Custody Hearing on 21 Aug 2000, the documents that Mr. Farro submitted to the courts prior to the hearing and the Court Trial hearing. He also stated that I was to pay cost of living allowances on top of my retirement that was improperly calculated because if it was a fixed amount cost of living adjustments are not authorized, ***Mansell v. Mansell, 490 US 581; 109 S. CT. 2023***.

Mr. Farro and at the time my Attorney, Mr. Raemaker conspired together prior to the Stipulations hearing dated 24 August 2000 and stated I had to pay my ex-wife a certain amount of my retirement. The amount was erroneous. The amount they calculated only reduced my retirement pay less disability. I did not know the law at the time and was dependent upon my attorney being fair and working for me. In the stipulation hearing he told the judge of the amount I was obligated to pay. After I begun questioning my attorney over Mr. Farro's misconduct my attorney quit. In the Trial Mr. Farro told the judge and myself that under the law I was suppose to pay my ex-wife what him and Mr. Raemaker had

figured as well as cost of living. Mr. Farro misstated the law because what he and Mr. Raemaker figured did not comply with the law, ***10 USC 1408***. The federal government has a website that explains to attorneys how to calculate military retirement. This site can be navigated to by going to URL http://www.dfas.mil and at the top of the page click on "money matters" and on the next page click on "garnishments". From that page click on "Attorney Instructions for dividing military retirement and sample language for court orders." The correct calculation was my retirement, less disability and survivor benefits and state and federal taxes. The two attorneys conspired against my military benefits. The Courts of Appeals stated that I agreed to that amount, I agreed to the law and Mr. Farro perjured himself in describing what the law stated.

On November 13, 2001, the trial judge made findings in a minute entry stating that the Court accepted stipulations of the parties and then stated what those stipulations were. The court did not state my retirement as part of the stipulations accepted but the opposing party entered that on the Order for the judge to sign without filing a Motion for Reconsideration.

The Court of Appeals stated that military retirement is calculated less disability pay to justify the amount of money that I was paying in child-support from August 24, 2000 hearing and October 16, 2001 trial. The amount I was paying was determined by my attorney and my ex-wife attorney and was 14% of my gross amount less my disability. Attorney Farro stated in the trial that I was also required to pay increases to that amount and that was the law. I agreed to the law stating what his client was entitled to. Federal law states that his client is entitled to gross amount less all money owed to the government, survivor benefit plan, and disability, which is considered to be disposable pay, ***10 USC 1408***. This was cited to the Court of Appeals. The Court of Appeals cited ***Danielson v. Evans, 201 Ariz. 401, 36 P.3d 749 (App.***

2001) stating that under the statute disposable pay excludes disability benefits, but they fail to state the other deductions such as State and Federal Taxes and Survivor Benefit Plans which are authorized under federal statute *10 USC 1408*. The United States defined disposable pay in ***Mansell v. Mansell, 490 U.S. 581; 109 S. Ct. 2023; 104 L. Ed. 2d 675, (1989)***

> **"(B) are required by law to be and are deducted from the retired or retainer pay of such member, including fines and forfeitures ordered by courts-martials, Federal employment taxes, and amounts waived in order to receive compensation under title 5 or title 38 [disability payments]." § 1408(a)(4)(B)."**

The ***United States Constitution, 14th amendment Section 1*** guarantees me a fair and impartial judge and equal protection of law **Goldberg v. Kelly, 397 US 254 (1970)**. I was not granted either and am surrounded by judges that prejudice men in family court. Hon. Judge Desens was not fair nor was he impartial, allowing the opposing party to perjure themselves over income and child-care amounts, and ignore evidence and testimony. Hon. Judge Desens also allowed Mr. Farro and Mr. Raemaker to conspire having me pay my ex-wife more retirement money than I was obligated to pay. On August 24, 2001 hearing the attorneys stated that would get normal visitations with midweek visitation with my son and stepson that was part of the agreement but they intentionally left off the Columbus Day federal holiday because of the possibility of it falling on my ex-wife birthday.

Hon. Judge Desens allowed inundation of violations to commence so that when I appeal; there will be so many violations that I would be viewed as a crybaby with no merit. It is also common-practice in Cochise County for judges not to abide by the law when it comes to giving custody to the father or just being fair to the father in divorce cases. Hon.

Judge Hoggart made it clear that he felt the law was to harsh on women and told the father that even though his ex-wife was convicted of drugs that he was not getting custody of his daughter, ***Diezsi v. Diezsi, 201 Ariz. 524; 38 P.3d 1189.*** ***" In its order, the trial court stated that the presumption in subsection (K) was "quite harsh," but specifically found that neither of the two factors in subsection (L) that may rebut the presumption "was shown by the evidence." Relying on the specific language of subsection (K), the court found that the presumption was inapplicable "by its own terms" because Christina's drug conviction had been entered on May 16, 2000, some two months after, not within twelve months before, Liam had requested the change of custody.***

P8 We agree that the precise language in (K) that the parent's drug conviction occur "within twelve months before the petition [*6] or the request for custody is filed" precludes application of the statutory presumption in determining whether to change custody. We do not agree, however, that the trial court was free to disregard the legislative intent and public policy evident in (K), as it apparently did. Clearly, the legislature intended to give notice to a convicted parent that a trial court must consider any drug conviction entered within twelve months prior to the filing of a request to change custody. And, because that purpose is clear, it must be equally clear that a drug conviction entered even closer to the date of a custody hearing is relevant to a custody determination. Moreover, the language of § 25-403(L) explicitly underscores the gravity of a recent drug conviction as a factor in determining custody."

Cochise County Court continues to be tilted for the women where Hon. Judge Irwin having alcohol in his chambers and making sexual comments, those are the acts that he admitted to committing **JC-00-0003**, but strong rumors are that he had

the court recorder change court transcripts to fit his rulings against men, and ask women out for dates.

The trial court did not find me to be of any danger to my son and gave my ex-wife custody of my son. In doing so the Court violated my 14th amendment rights of equal protection of law. My ex-wife never made her oldest son Justin father pay any child-support or have she made any attempt to have him to pay child-support, but I am being ordered to pay support. The court actions violated the ***14th Amendment, section 1.***

> ***"Section 1. All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the state wherein they reside. No state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any state deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws."***

All family members rights could have been protected if I was awarded primary custody of my son Jarod; therefore, not promoting benefits to women who have illegitimate children. The Courts of Appeals recognized that even though a person can be convicted of domestic violence, he can receive custody of his child and the court didn't find me to be negative to the best interest to my son. On the other hand the court accepted in a stipulation of orders dated 24 Aug 2000, that I receive normal visitations, as well as mid-week visitations and that Terri could only use a babysitter to watch the children if I can't see them, other than that I will watch my son and my ex-step-son. The wish of his mother is to have me to pay support Jarod but Justin's father have no obligations to his son. Do Justin and his father have a

fundamental right to know that each other exist and his father the right to support and raise his child?

The Court of Appeals violated the same clause by not considering ***ARS 25-403(J),***

> ***"In a contested custody case, the court shall make specific findings on the record about all relevant factors and the reason for which the decision is in the best interest of the child"***

In ***Diezsi v. Diezsi, 201 Ariz. 36 P.3d 749 (2001)***, the Court of Appeals considered ***ARS 25-403(J)*** because the judge failed to make specific findings.

> ***"P4 When determining custody, initially or on request for modification, a trial court must comply with § 25-403(A). n1 "In a contested custody case, the court shall make specific findings on the record about all relevant factors and the reasons for which the decision is in the best interests of the child." § 25-403(J)."***

The statute does not give the judge an option to make specific findings in stead it obligates the judge. The Courts of Appeals is punishing me because the judge failed to comply with the law. In my case the Court of Appeals failed to consider **ARS 25-403(J)** and the State actions must consistent, ***Bulchalter v. People of New York, NY, 63 S. Ct. 1129, 319, US 427, 87 L.Ed. 1492, (1943).***

In ***Owen v. Blackhawk, 206 Ariz. 418 (2004)*** where the father argued that the judge do not have to make specific findings, the Courts of Appeal stated that the judge had to make specific findings; the Courts of Appeal violated my US Constitutional Rights, supra ***14th Amendment, section 1.*** Even if my conviction was not vacated because the state violated my US Constitutional Rights, I should have received custody of my son whom I was the primary caregiver until these legal actions began.

REASONS FOR GRANTING THIS WRIT OF CERTIORARI

The State Court has decided this case that conflict with federal and military laws, and allowed attorneys to misstate federal law and induce clients to commit perjury and fraud. If these abuses by the state are to prevail, why should the citizen of the United States have confidence in the state legal system? This writ addresses the important questions of law and judicial misconduct; especially, if a judge fails to do his adhere to the law it is unjust to hold a pro se litigant responsible. This writ shows judges disregarding family state laws and evidence to promote personal biases even if the bias allows a person to use the state judicial system to commit fraud.

CONCLUSION

I request that this court remand to the State directions to remove Hon. Judge Desens from this case as well as sanction. Also Mr. Farro be held responsible for State and Federal violations of my federal entitlements and US Constitutional rights; also that my military retirement be figured in accordance with federal law and I be paid all of the monies I was juke out of and a new custody with an unbiased judge. For the foregoing reasons the petition for writ of certiorari should be granted.

Respectfully submitted this 08 day of March 2005.

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(2)

Supreme Court, U.S.

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OFFICE OF THE CLERK

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Attorney: Michael Farro

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Appendix A

Minute Entry: order to Show Cause
Temporary Orders

SUPERIOR COURT OF ARIZONA
COUNTY OF COCHISE

Date August 24, 2000

CASE: CALVIN PHILLIP ROACH,
vs. TERRI LEE ROACH

MINUTE ENTRY ACTION: 695: ORDER TO SHOW CAUSE CASE NO: DO200000410

JUDGE HONORABLE STEPHEN M. DESENS
DENISE I. LUNDIN, CLERK
DIVISION Two
COURT REPPORTER Penny Heins
By Rachel J. Jones 08/30/00, Deputy
ADDRESS & PHONE 481 S. Laguna Ave., Sierra Vista, AZ Docketed by_____
85635 (520)378-1382

PRESENT: Petitioner present in person and by Gary W. Ramaeker, Esquire

Respondent present in person and by Michael E. Farro, Esquire

This matter came before the Court at 3:35 p.m. for Order to Show Cause.

THE RECORD MAY SHOW that it is the Court's understanding that an agreement had been reached.

Mr. Ramaeker recited the stipulation for the record and Mr. Farro added clarification on a couple of points. The Court inquired of and heard from the parties. Both parties having agreed to the stipulation;

IT IS ORDERED: ACCEPTING the stipulation by and between the parties as stated on record.

IT IS FURTHER ORDERED:
GRANTING leave to Gary W. Ramaeker, Esquire to

prepare the formal written Order approved by Michael E. Farro, Esquire and present the same to the Court. The Court will sign the formal written Order without further hearing.

IT IS FURTHER ORDERED:

RESERVING the ruling on attorney's fees for another time.

IN THE SUPERIOR COURT OF THE STATE OF ARIZONA
IN AND FOR THE COUNTY OF COCHISE

In re the Marriage of:	)
	)
CALVIN ROACH,	) DO200000410
	)
Petitioner,	) STIPULATED
	) TEMPORARY
and	) ORDERS
	)
TERRI ROACH,	)
	)
Respondent.	)

Petitioner's Petition for Order to Show Cause having come before the Court on August 21, 2000, and again on August 24, 2000, and the parties having reached a stipulation,

IT IS HEREBY ORDERED that pending the outcome of this case:

1. The Respondent, TERRI ROACH, shall have the care, custody and control of the minor children, JAROD ROACH and JUSTIN ROACH, JR.
2. The Respondent may move Jarod Roach from enrollment at Pueblo Del Sol elementary school to Town & Country elementary school.
3. The Petitioner, CALVIN ROACH, shall have reasonable visitation with the minor children as follows:

   (a) Alternate weekends from after school (3:00 p.m.) Friday to 6:00 p.m. Sunday.

(b) One-half the summer school vacation.
(c) Easter weekend, 2001, from 6:00 p.m. the Friday before that Easter holiday to
6:00 p.m. that day and thereafter in alternate years.
(d) Memorial Day weekend, 2002, from 6:00 p.m. the Friday before that holiday
to 6:00 p.m. that day and thereafter in alternate years.
(e) Independence Day, 2001, from 6:00 p.m. the day before that holiday to 10:00
p.m. that day and thereafter in alternate years.
(f) Labor Day weekend, 2000, from 6:00 p.m. the Friday before that holiday to
6:00 p.m. that day and thereafter in alternate years.
(g) Veterans Day weekend, 2001, from 6:00 p.m. the Friday before that holiday
until 6:00 p.m. that day and thereafter in alternate years.
(h) Thanksgiving weekend, 2000, from 6:00 p.m. the Wednesday before that holiday to 6:00 p.m. the Sunday after that holiday and thereafter in alternate years.
(i) Christmas, 2001, the first one-half of Christmas school vacation, commencing at 6:00 p.m. the last day of school before the vacation and ending at 12:00 noon in the middle of

said vacation and thereafter in alternate years.

(j) Christmas, 2000, the second one-half of Christmas school vacation, commencing at 12:00 noon in the middle of said vacation to 6:00 p.m. on the last day of vacation and thereafter in alternate years.

(k) Martin Luther King weekend, 2001, from 6:00 p.m. the Friday before that holiday until 6:00 p.m. that day and thereafter in alternate years.

(l) Presidents Day, 2002, from 6:00 p.m. the Friday before that holiday until 6:00 p.m. that day and thereafter in alternate years.

(m) Spring School Vacation, 2001, commencing at 6:00 p.m. the last day of school before the vacation and ending at 6:00 p.m. the day before school resumes and thereafter in alternate years.

(n) Petitioner is granted the care and custody of the minor children on Father's Day of each year, beginning at 6:00 p.m. the Friday before that day to 6:00 p.m. that Sunday.

(o) Respondent is granted the care and custody of the minor children on Mother's Day of each year, beginning at 6:00 p.m. the Friday before that day to 6:00 p.m. that Sunday.

(p) Petitioner is granted the care and custody of the minor children on his birthday from after school to 7:30

p.m. If Petitioner's birthday falls on Mother's Day, then he may have the children on the day before or the day after Mother's Day. If he has visitation the day before Mother's Day, the length of the visit may be extended from noon until 7:30 p.m.

(q) Respondent is granted the care and custody of the minor children on her birthday.

(r) Petitioner and Respondent anticipate that Respondent's mother will be living with her and she will care for the children in the absence of Respondent or Petitioner. Therefore, no babysitter is anticipated. In the event Respondent's mother cannot, will not or chooses not to spend time with the children in Respondent's absence, the Petitioner may be allowed to do so.

(s) Petitioner may have one mid-week visit with the children each Wednesday
from after school until 7:30 p.m., when they will be returned to Respondent.

(t) Telephonic visitation twice each week during the children's normal waking hours.

(u) Any other times agreed upon by the parties.

(v) Petitioner is allowed to pick up and deliver the children to Respondent's apartment complex prior to, after or during periods of

visitation without violating the existing protective order.

4. The Petitioner will pay to Respondent the sum of $550 per month as and for child support, dating to mid-May, 2000. Petitioner will commence paying $550 per month beginning in September, 2000.

5. The Petitioner is in arrears in his child support obligation from mid-May, 2000 through August, 2000, in the amount of $1925 less $510 he has already paid. Therefore, a balance of $1415 remains to be paid. Petitioner will pay that amount at the rate of $400 per month beginning September, 2000.

6. Child support and arrearage payments will be paid one-half on the 2nd and one-half on the 16th days of each month.

7. Child support and arrearage payments will be made directly to Respondent by delivering check to Respondent's attorney's office at 4116 Avenida Cochise, Suite E, Sierra Vista, Arizona

8. The Petitioner will pay to Respondent the sum of $74 per month for Respondent's share of Petitioner's military retirement.

9. After Petitioner has paid the child support arrearages, Respondent may request spousal maintenance by filing an appropriate motion with the Court. In that event, Petitioner may oppose the motion and a hearing will be set.

10. The issue of attorney's fees will abide the outcome of this case.

11. Respondent's mother and Petitioner will be named as parties who would be able to pick up the children from school. This will facilitate Petitioner's visitation with the children because he anticipates picking up the children from school. It also will allow for prompt attention for the children in case of an emergency.

Appendix B

Dissolution of Marriage Minute Entry
Dissolution of Marriage Order

SUPERIOR COURT OF ARIZONA
COUNTY OF COCHISE

Date November 13, 2001

CASE: CALVIN ROACH, Petitioner. vs.
TERRI L. ROACH, Respondent.

MINUTE ENTRY ACTION: **DECISION ON UNDER ADVISSEMENT MATTER (429)**
CASE NO: **DO200000410**

JUDGE **HONORABLE STEPHEN M. DESENS**
DENISE I. LUNDIN, CLERK
DIVISION **Two**
COURT REPPORTER----------

PRESENT: ----------

The Court having taken this matter under advisement; and the Court having reviewed and

considered the testimony and evidence presented at the trial of this matter on October 16, 2001;

IT IS THE FINDING OF THE COURT as follows:

1. That the Court has jurisdiction in this matter.

2. That the Court accepted the stipulation of the parties made in open court that the distribution of community property and

community debts is fair and equitable under the facts and circumstances.

IT IS ORDERED as follows:

1. That the Respondent, TERRI L. ROACH, is herby awarded the legal and physical care, custody and control of the minor child of the parties, JAROD ROACH, subject to reasonable visitation rights in the Petitioner, CALVIN ROACH.
2. Accepting the stipulation of the parties that the Petitioner, CALVIN ROACH, shall have reasonable visitation rights with a step-son, JUSTIN ROACH, since the same is in the best interest of the minor child as long as the minor child consents to such visitation.
3. DENYING Petitioner's Motion for Sanctions and Motion to Speak with JUSTIN ROACH.
4. Petitioner, CALVIN ROACH, shall acquire and maintain medical and dental insurance on the minor child and Petitioner shall keep and maintain a $100,000.00 life insurance policy and shall name the minor child, JAROD ROACH as sole irrevocable beneficiary.
5. All uncovered medical and/or dental costs or deductibles shall be paid in accordance with the child support guidelines which is presently 70% by Petitioner and 30% by Respondent.
6. Respondent, TERRI L. ROACH, is awarded the federal and state tax exemptions for and shall designate the minor child, JUSTIN ROACH, as a dependent for all tax purposes.
7. The parties shall alternate the claiming of the minor child, JAROD ROACH, for federal and state tax exemption purposes and as a

dependent with the Respondent awarded such exemption on odd numbered years and the Petitioner awarded the exemption on even numbered years; therefore, Respondent, TERRI L. ROACH, shall be permitted to claim the exemption beginning in tax years 2001 and the Petitioner, CALVIN ROACH, shall be permitted to claim the exemption beginning in tax years 2002 and the parties shall alternate each year thereafter unless a child support arrearage exists at the end of a calendar year.

8. Petitioner, CALVIN ROACH, shall pay the sum of $805.67 a month as and for child support commencing with the month of December, 2001 and continuing each month thereafter until further order of this Court.
9. Petitioner shall pay the Respondent's reasonable attorney's fees and costs of suit. Counsel for Respondent shall file with the Court appropriate pleadings and affidavit for the Court's consideration as required by law.
10. Counsel for Respondent shall prepare and lodge with the Court a formal written Decree of Dissolution of Marriage consistent with the orders of the Court set forth in this minute entry order.

MICHAEL E. FARRO
Attorney at Law
4116 Avenida Cochise, Suite E
Sierra Vista, AZ 85653
(520) 458-8494
Arizona State Bar #010865
Attorney for Respondent

IN THE SUPERIOR COURT OF THE STATE OFARIZONA
IN AND FOR THE COUNTY OF COCHISE

In re the Marriage of:	)
	) DO200000410
CALVIN ROACH,	)
	) DECREE OF
Petitioner,	) DISSOLUTION OF
	)MARRIAGE
and	)
	) Assigned to
TERRI L. ROACH,	) Hon. Stephen Desens
	)
Respondent	)

This matter having come before the Court on the 16th day of October, 2001, the Petitioner appearing in pro per, and the Respondent appearing in person and represented by counsel;

IT IS THE FINDING OF THE COURT as follows:

1. That the Court has jurisdiction in this matter.
2. That the Court accepted the stipulation of the parties made in open court and that the distribution of community property and community debts is fair and equitable under the facts and circumstances.

IT IS ORDERED as follows:

A. That the Respondent, TERRI L. ROACH, is herby awarded the legal and physical care, custody and control of the minor child of the parties, JAROD ROACH, subject to reasonable visitation rights in the Petitioner, CALVIN ROACH.

B. That Petitioner, CALVIN ROACH, shall have reasonable visitation rights with a step-son, JUSTIN ROACH, since the same is in the best interest of the minor child as long as the minor child consents to such visitation.

C. That Petitioner's Motion for Sanctions and Motion to Speak with Justin Roach is denied.

D. That Petitioner shall acquire and maintain medical and dental insurance on the minor child and Petitioner shall keep and maintain a $100,000.00 life insurance policy and shall name the minor child, JAROD ROACH, as sole irrevocable beneficiary.

E. All uncovered medical and/or dental costs or deductibles shall be paid in accordance with child support guidelines, which is presently 70% by Petitioner and 30% by Respondent.

F. That Respondent is awarded the federal and state tax exemptions for and shall designate the minor child, Justin Roach, as a dependent for all tax purpose.

G The parties shall alternate the claiming of the minor child, Jarod Roach, for federal and state tax exemption purposes and as a dependent with the Respondent awarded such exemption on odd numbered years and the Petitioner awarded the exemption on even numbered years; therefore, Respondent shall be permitted to claim the exemption for tax year 2001 and the Petitioner shall be permitted to claim the exemption beginning in tax years 2001 and the Petitioner shall be permitted to claim the exemption beginning in tax year 2002 and the parties shall alternate each year thereafter unless a child support arrearage exists at the end of the calendar year.

H. That Petitioner shall pay to the Respondent the sum of $805.67 per month as and for child support commencing December, 2001. Payments shall continue monthly until the child reaches the age of majority, is emancipated or until further order of the Court. With respect to a child, an emancipation event shall occur or be deemed to occur upon the earliest happening of any of the following:

(a) On the date of the child's marriage
(b) On the child's eighteenth birthday
(c) When the child is adopted
(d) When the child dies
(e) When the support obligation is terminated by the Court if support is extended beyond the age of 18.

If a child attains the age of eighteen (18) years while he is attending high school, child support will continue past the age of majority (18) during the period the child is actually attending high school until a maximum age of 19.

I. That pursuant to A.R.S. §25-320 and §25-323, the Clerk of the Court shall assign so much of Petitioner's periodic earnings to Respondent as is necessary to satisfy this child support order or any modifications hereof s may be ordered from time to time. The Clerk of the Court shall order all support to be paid by Petitioner's employer, by check payable to the Support Payment Clearinghouse, P.O. Box 52107, Phoenix, Arizona 85072-2107. The first payment shall be accompanied by an annual process fee, which must be paid annually thereafter. The present amount of this processing fee is $27.00. Payments are due by assignment of wages from the first or first two or more paychecks Petitioner receives each month.

J. That the parties have previously divided their personal property and each will keep what is presently in their possession and all their personal effects.

K. That Petitioner is responsible for and will pay the following debts and hold the Respondent harmless therefore;

Wells Fargo (student loan).....16,900.
Ft. Belvoir Credit Union.....5,000.
DPP.....5,000.

Entire Sierra Remodeling judgment, or in the event that his Sierra Remodeling law suit is successful, he will be entitled to all proceeds from that action, and any debts in his name alone.

L. That Respondent is responsible for and will pay the following debts and hold the petitioner harmless therefore;

Car Loan.....13,000.
Mastercard..... .....6,364.
Checking overdraft.....3,112.
MBNA loan.....10,000.

and any debts in her name alone.

M. That Respondent is awarded her Thrift Savings Plan.

N. the Petitioner is awarded his 401(K).

O. That Respondent is awarded a 14% interest in Petitioner's non-disability military retirement, to include future cost of living increases.

P. That Petitioner is awarded 50% of the Respondent's Federal Employees Retirement System (FERS) that has accrued from her entry date into Civil Service, August, 1996, to the date of service of the petition for dissolution of marriage, May 11, 2000.

Q. The Petitioner is awarded as his sole and separate property, the 1995 Mazda and any lien thereon.

R. The Respondent is awarded as her sole and separate property, the 1995 Chevrolet Cavalier, and any lien thereon.

S. That the Petitioner is awarded any checking and savings accounts in his name.

T. That the Respondent is awarded any checking and savings accounts in her name.

U. That the children's investment accounts will be held in trust for the children by the Petitioner.

V. Respondent is awarded $8194.00 in attorney's fees and costs.

DONE IN OPEN COURT this 21st day of December, 2001.

Stephen M. Desens
JUDGE OF THE SUPERIOR COURT

Appendix C

Arizona Court of Appeals, Memorandum of Decision

Denial of Motion for Review

COURT OF APPEALS
STATE OF ARIZONA
DIVISION TWO

O R D E R

2 CA-CV 2001-0215
Department B
Cochise County
Cause No. DO200000410

RE: ROACH v. ROACH

The above-entitled matter was duly submitted to the Court. The Court has this day rendered its Memorandum Decision.

ORDERED: The Memorandum Decision be filed.

FURTHER ORDRED: A copy of this order together with a copy of the Memorandum Decision be sent to each party appearing herein or the attorney for such party.

DATED: November 24, 2003

IN THE COURT OF APPEALS
STATE OF ARIZONA
DIVISION TWO

In re the Marriage of:	) 2 CA-CV 2001-0215
	) DEPARTMENT B
CALVIN P. ROACH,	)
	) MEMORANDUM
Petitioner/Appellant,	) DECISION
	) Not for Publication
	) Rule 28, Rules of Civil
and	) Appellant
Procedures	
	)
TERRI L. ROACH,	)
	)
Respondent/Appellee.	)

APPEAL FROM THE SUPERIOR COURT OF COCHISE COUNTY

Cause No. DO200000410

Honorable Stephen M. Desens, Judge

AFFIRMED IN PART AND REMANDED IN PART WITH DIRECTIONS

ESPINOSA, Chief Judge,

¶1 Petitioner/appellant Calvin Roach and respondent/appellee Terri Roach were divorced in 2001. Appearing *pro se*, Calvin argues the trial court erred in failing to sanction Terri's attorney and in admitting

evidence "submitted through a pre-trial statement." Calvin also challenges the decree provisions granting Terri sole custody of the parties' child, awarding her a portion of his retirement benefits, ordering him to provide medical and dental insurance for their child, and giving Terri a credit on the child support award for the amount she pays to insure her children. Calvin further asserts that his right to a fair and impartial trial was violated. We affirm in part and remand in part for the limited purpose explained below.

Facts and procedural History

¶2 At the time Calvin and Terri were married in 1992, both were in military service and Terri had a son from a previous relationship. By the time their son was born, Terri's term of enlistment had expired and she stayed home with the children, working occasional temporary or "side" jobs. Terri began working full time for the Immigration and Naturalization Service (INS) in August 1996. Shortly after she completed her four-month training program, Calvin retired from the military, began collecting military retirement benefits and veterans' disability benefits, and got a job in the private sector.

¶3 Two days after a May 2000 incident, for which Calvin was subsequently convicted of domestic violence and assault, he filed a petition for dissolution of the marriage. He sought sole custody of both children and monthly child support from Terri. In her response to the petition, Terri pointed out that the oldest child was not a product of the marriage and requested custody of the parties' child, monthly child support, and spousal maintenance. After a hearing, the court entered temporary custody and child support orders pursuant to stipulation. After a trial, the court accepted the parties' stipulation that Calvin have visitation with Terri's son subject to the child's consent, divided their community assets and debts pursuant to that stipulation, awarded custody of the couple's child to Terri, and ordered Calvin to pay child support and Terri's reasonable attorney fees and costs. This appeal followed.

Denial Of Request for Sanctions

¶4 Calvin first argues the court erred in failing to sanction or hold Terri's attorney in contempt for making and assisting her in making false statements to the court.[1] Whether to award sanctions is a matter within the sound discretion of a trial court. *Woodworth v. Woodworth*, 202 Ariz. 179, 42 P.3d 610 (App. 2002); *Taliaferro v. Taliaferro*, 188 Ariz. 333, 935 P.2d 911 (App. 1996). In support of his argument, Calvin contrasts Terri's testimony at an order-to-show-cause hearing that she made $2,000 per month with her trial testimony that she made $3,400 per month.

[1]As support for this argument, Calvin cites 18 U.S.C. § 401, which defines the contempt powers of "[a] court of the United States," but is not applicable to a state court. *See* 18 U.S.C. §§ 5, 23 (defining "United States" and "Court of the United States")
Calvin claims she actually makes more than $3,800 monthly. At the order-to-show-cause hearing, however, Terri's attorney stated he had erred in asking Terri whether her monthly income was $2,000 and corrected the about to $3,000. Terri clarified that her annual base salary is $35,728 and explained it was subject to fluctuation for things such as "night differential," which she had been receiving. At trial more than a year later, Terri calculated her monthly income at about $3,400, based on her actual income for the fist nine and one-half months of that year. We find nothing in the record, nor does Calvin cite anything, supporting his assertion that Terri's monthly income was actually $3,800 or that she in any way deceived the court or engaged in "a pattern of deception and misrepresentation." See *In re Ireland*, 146 Ariz. 340.343,706 P.2d 352, 355 (1985). Accordingly,

we cannot conclude that the court abused its discretion in denying Calvin's request for sanctions.[2]

[2]Similarly, the record does not support Calvin's assertions that Terri and her attorney committed fraud, racketeering, or perjury. Moreover, questions of a witness's credibility are for the trial court to resolve. *Gutierrez v. Gutierrez*, 193 Ariz. 343, 972, P.2d 676 (App. 1998); *Standage v. Standage,* 147 Ariz. 473, 711 P.2d 612 (App. 1985).

Pretrial Statement

¶5 Relying on Rule 37(c), Ariz. R. Civ. P., 16 A.R.S., Pt.1, [3]Calvin next contends that the court erred in allowing Terri to present evidence of her income and of a domestic violence incident, claiming she presented it n a supplemental pretrial statement in violation of the Rules of Civil Procedure. "A party who fails to timely disclose information required by Rule 26.1[,Ariz. R. Civ. P., 16 A.R.S., Pt. 1,] shall not, unless such failure is harmless, be permitted to use as evidence at trial, at a hearing, or on a motion, the information or witness not disclosed, except by leave of court for good cause shown." Aris. R. Civ. P. 37(c)(1).

[3]Terri responds that she timely filed her supplemental pretrial statement more than five days before trial as required by Rule 6(a), Ariz. Unif. R. P. Super. Ct., 17B A.R.S The Uniform Rules of Practice, however, were abrogated on December 1, 2000, well before trial was held. 198 Ariz. XXXIX.

¶6 The court denied Calvin's request for late disclosure sanctions, finding he had not been prejudiced by the evidence because the parties' stipulated property agreement had rendered the supplemental financial information irrelevant and because the court was required as a matter of law to consider the domestic violence issues in determining custody of the couple's child. *See* A.R.S. § 25-403(B) ("The court shall consider evidence of domestic violence as being contrary to the best interests of the child."). Moreover, the domestic violence incident was already well documented in the record and had been included in Terri's May 2000 disclosure statement. As for the upward correction in Terri's income, it did not prejudice Calvin because it served to lessen his proportionate share of child support. We see no basis for disturbing the trial court's conclusion that any failure by Terri to timely disclose the evidence was harmless error.

Calvin's Retirement Benefits

¶7 Calvin argues the trial court erred in awarding Terri fourteen percent of his "gross retirement," contending 10 U.S.C. § 1408(a)(2)(C) requires that Terri's share be calculated as "a percentage of disposable retired pay." Under that statute, "disposable retired pay" specifically excludes disability benefits that are deducted from the retired member's pay. 10 U.S.C. § 1408(a)(4)(C); *see also Danielson v. Evans*, 201 Ariz. 401, 36 P.3d 749 (App. 2001); *In re Marriage of Gaddis*, 191 Ariz. 467, 957 P.2d 1010 (App. 1997). The parties' stipulated property settlement, however, awarded Terri fourteen percent of Calvin's "non-disability military retirement." Accordingly, contrary to Calvin's assertion, the court's order complies with the applicable federal statutes

¶8 In a related argument, Calvin contends the portion of the decree awarding Terri an interest in his retirement benefits does not comport with the court's post-trial findings. The court made findings, however, only on custody, child support, and attorney fees and accepted the parties' stipulation dividing their community assets and debts, including the award to Terri of fourteen percent of Calvin's non-disability military retirement benefits. Parties are bound by their stipulations unless relieved there from by a court; parties cannot stipulate to one thing and then later change their minds and unilaterally withdraw consent to the stipulation. *Pulliam v. Pulliam*, 139 Ariz. 343, 678 P.2d 528 (App. 1984).

Custody

¶9 Calvin challenges the trial court's order awarding sole custody of their child to Terri, asserting he should have been awarded sole custody instead because Terri's only motive in seeking custody was financial.[4] We will not overturn a trial court's decision on child custody absent a clear showing of an abuse of the trial court's

discretion. *Dunbar v. Dunbar*, 102 Ariz. 352, 429 P.2d 949 (1967); *Smith v. Smith*, 117 Ariz. 249, 571 P.2d 1045 (App. 1977). And we will uphold the trial court's ruling unless it is clearly erroneous or unsupported by the evidence, viewing the evidence in the light most favorable to sustaining the court's findings. *In re Marriage of Yuro*, 192 Ariz. 568, 968 P.2d 1053 (App. 1998).

[4]Calvin also sought custody of Terri's son under an *in loco parentis* theory, but was unable to meet his burden of proof to show that Terri was an unfit parent. See A.R.S. § 25-415(B) (nonparent seeking custody must show by clear and convincing evidence that awarding custody to child's legal parent is not in child's best interests).

We will not reweigh any conflicting evidence, deferring to the trial court's determination of the witnesses' credibility. *Gutierrez; Rowe v. Rowe*, 154 Ariz. 616, 744 P.2d 717 (App. 1987).

¶10 Section 25-403(B) requires a trial court to consider domestic violence as a factor against the perpetrator. See *Canty v. Canty*, 178 Ariz. 443, 874 P.2d 1000 (App. 1994). The statute "does not, however, require that the presence of this factor must automatically tip the scales against the offending spouse." *Id.* at 448, 874 P.2d at 1005. Both Terri and her mother testified that the children had been present during the domestic violence incident and had been upset by it. Both further testified that such incidents had been ongoing during the marriage. Calvin admitted he had been convicted of domestic violence after the May 2000 incident and that he had hit Terri in the face with a plate, but pointed out he had appealed the conviction on constitutional grounds.[5] In view of this testimony, we cannot say that the trial court abused its discretion in awarding custody of their child.[6]

[5]In his reply brief, Calvin asserts that his conviction was vacated in 2002. We need not consider this assertion, however, because the decree was final in December 2001. *See Thompson v. Ariz. Dep't of Econ. Sec.*, 127 Ariz. 293, 619 P.2d 1070 (App. 1980) (appellate court limited to consideration of evidence presented to trier of fact).

[6]The trial court made no findings related to custody as required by A.R.S. § 25-403(J) ("In a contested custody case, the court shall make specific findings on the record about all relevant factors and the reasons for which the decision is in the best interests of the child."). Calvin does not raise the issue, and we therefore do not address it.

Obligation for Child's Medical Insurance

¶11 Calvin next contends that the trial court erred in ordering him to provide medical and dental insurance for the parties' son, while "taxing him" on the child support order for the amount Terri pays for her children's medical and dental insurance. At the time the petition for dissolution was filed, section 8 of the Arizona Child Support Guidelines (Guidelines) stated in pertinent part:

> To determine the Total Child Support Obligation, the court:
>
> > a. Shall add to the Basic Child Support Obligation the cost of the children's medical insurance coverage. In determining the amount to be added, only the amount of the insurance cost attributable to the children subject of the support order shall be included. If coverage is applicable to other persons, the total cost shall be prorated by the number of persons covered.

A.R.S. § 25-320, Appendix.

¶12 The decree orders Calvin to provide medical and dental insurance for his and Terri's child. The child support order, however, allows Terri a credit for the premium she pays to cover both children on her insurance, thereby increasing the total child support obligation and Calvin's share of that obligation. The order fails to prorate the premium amount as the Guidelines require. As a result, Calvin is paying twice to insure his child and is paying a portion of the premium to insure a child unrelated to him. We therefore remand the matter to the trial court for it to remedy this error in one of two ways. It may modify the decree to order Terri to provide their child's medical and dental insurance and

recalculate the child support award to reflect only that portion of the premium attributable to the medical insurance for the parties' child. Alternatively, it may recalculate the child support award to credit Calvin with any premium he pays for medical insurance for their child and subtract any amounts Terri pays. If Terri wishes to doubly insure the child, she should bear the cost of that choice.

Fair and Impartial Judge

¶13 Finally, Calvin argues that his right to procedural due process was violated, claiming he was not afforded a fair trial by a fair and impartial judge. But Calvin did not file a notice for change of judge either as a matter of right pursuant to Rule 42(f)(1), Ariz. R. Civ. P., 16 A.R.S., Pt. 1, or for cause pursuant to Rule 42(f)(2). "The right to apply for a change of judge for cause is waived if not timely filed." *Fendler v. Phoenix Newspapers, Inc.*, 130 Ariz. 475, 481, 636 P.2d 1257, 1263 (App. 1981). In any event, that the judge ruled against Calvin does not demonstrate bias or unfairness. *See State v. Hill*, 174 Ariz. 313, 324, 848 P.2d 1375, 1386 (1993) ("[T]here is a great deal of difference between ruling on questions of law and demonstrating bias and prejudice.")

¶14 Affirmed in part; remanded in part with directions.

_____

PHILIP G. ESPINOSA, Chief Judge

CONCURRING:

_____

JOHN PELANDER, Presiding Judge

_____

PETER J. ECKERSTROM, Judge

COURT OF APPEALS
STATE OF ARIZONA
DIVISION TWO

December 17, 2003

RE: ROACH v. ROACH
2 CA-CV 2001-0215
Cochise County Superior Court Cause No. DO200000410

The following action was taken by the court of Appeals for the State of Arizona, Division Two, Department B on December 16, 2003.

ORDERED: Motion for Reconsideration is DENIED.

_____
John Pelander
Presiding Judge

Appendix D

Arizona Supreme Court Decision

SUPREME COURT
STATE OF ARIZONA

August 19, 2004

RE: CALVIN P ROACH v TERRI L ROACH
Arizona Supreme Court No. CV-04-0149-PR
Court of Appeals Division Two No. 2 CA-CV 01-0215
Cochise County Superior Court No. DO200000410

GREETINGS:

The following action was taken by the Supreme Court of the State of Arizona on August 19, 2004, in regard to the above-referenced cause:

ORDERED: Review to the Arizona Supreme Court [Petition for Review] = DENIED

A panel composed of Vice Chief Justice McGregor, justice Berch and Justice Hurwitz participated in the determination of this matter.

Record from Court of Appeals, Division Two, Tucson, was an electronic link.

Noel K Dessaint, Clerk